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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BLUE SPIKE LLC;
BLUE SPIKE INTERNATIONAL LTD;
WISTARIA TRADING LTD,

Plaintiffs.

v.

UNIVERSAL MUSIC GROUP, INC.;
UMG MANUFACTURING &
LOGISTICS, INC.; and
UNIVERSAL MUSIC PUBLISHING,
INC. d/b/a UNIVERSAL MUSIC
PUBLISHING GROUP,

Defendants.

Case No.: 2:22-cv-06331-GW-JEM

Judge George H. Wu

**JOINT CLAIM
CONSTRUCTION AND
PREHEARING STATEMENT**

Pursuant to N.D. Cal. Patent Rule 4-3 and the current Scheduling Order (Dkt. No. 51), Plaintiffs Blue Spike LLC, Blue Spike International Ltd., and Wistaria Trading Ltd. (collectively, “Blue Spike”) and Defendants Universal Music Group, Inc., UMG Manufacturing & Logistics, Inc., and Universal Music Publishing, Inc. d/b/a Universal Music Publishing Group (collectively, “UMG”) hereby provide this Joint Claim Construction and Prehearing Statement.

I. AGREED TERMS (P.R. 4-3(a))

As of the date of this Prehearing Statement, the parties have not agreed fully upon any proposed constructions for claim terms found in U.S. Patent Nos. 7,664,263 (“the ’263 patent”), 8,265,276 (“the ’276 patent”), 7,813,506 (“the ’506 patent”), and 7,647,502 (“the ’502 patent”) (collectively, “the Asserted Patents”).

II. DISPUTED TERMS (P.R. 4-3(b))

Exhibit A attached hereto identifies ten terms, phrases, or clauses of the Asserted Patents that are most in dispute. In addition, where applicable, Exhibit A contains an identification of intrinsic evidence supporting a proposed claim construction as well as extrinsic evidence that each Party intends to rely on to support its proposed constructions or to oppose the proposed construction of the other Party. UMG does not waive the ability to raise indefiniteness or other invalidity issues at a later stage of this case, e.g., in a motion for summary judgment or at trial. Pursuant to the Scheduling Order, Dkt. 51, the parties are separately filing their expert reports. UMG does not waive the ability to raise other claim construction issues in the Asserted Patents should a need arise for those claims to be construed. Blue Spike’s position is that construction of additional terms violates the Court’s Text-Only Entry of October 24, 2023 (Dkt. 55), and no other terms require construction or should be construed post-*Markman*.

Exhibit B attached hereto is a prior Claim Construction Order from a previous case in this District concerning the ’506 patent, ’263 patent, and ’276 patent, *Blue Spike LLC et al. v. Pandora Media, Inc.*, No. 2-19-cv-00748-JAK (C.D. Cal. Jan.

21, 2019). Blue Spike's position is that each construction in the prior Claim Construction Order should control in this case. UMG's position is that UMG was not involved in the prior case and that the prior District Court's claim construction order is not binding in this case. Notably, different claims and technologies were involved in the prior case, and UMG disagrees with the applicability of the order and certain constructions from that prior case.

III. MOST SIGNIFICANT TERMS (P.R. 4-3(c))

The parties agree that the following terms are the most significant, as numbered in Exhibit A: Term Nos. 2 and 3.

UMG identifies the following additional terms as the most significant, as numbered in Exhibit A: Term Nos. 1, 4-6, 9 and 10. UMG believes all of the most significant identified terms listed above are dispositive of non-infringement for each respective patent.

Blue Spike identifies the following additional terms as the most significant, as numbered in Exhibit A: Term Nos. 7 and 8.

IV. LENGTH OF TIME NECESSARY FOR CLAIM CONSTRUCTION HEARING (P.R. 4-3(d))

The Parties anticipate 1.5 hours per side for the claim construction hearing.

V. WITNESSES AT THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(e))

UMG is willing to make its expert witness, Dr. Joshua Reiss, available for any hearing date if the Court would find such testimony helpful. UMG notes that the company that developed the Accused Product in this case was headquartered in the United Kingdom, and similarly, UMG's expert witness is also located in the United Kingdom, and thus would request the ability to present any testimony via videoconference. Blue Spike intends to call its expert, Dr. Phillip Hallam-Baker.

VI. FACTUAL FINDINGS REQUEST FROM THE COURT (P.R. 4-3(f))

1 The Parties have not identified any independent factual findings that need to
2 be addressed by the Court related to claim construction.

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4 Dated: October 31, 2023

DEVLIN LAW FIRM, LLC

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6 By: /s/ Andrew Sherman
Andrew Sherman

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8 *Attorney for Plaintiffs,*
Blue Spike LLC, et al.

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10 Dated: October 31, 2023

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11 By: /s/ Michael K. Heins
12 Martin R. Bader
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